



January 4, 2021

VIA E-File

The Honorable Richard G. Andrews
United States District Judge
J. Caleb Boggs Federal Building
844 N. King Street
Wilmington, DE 19801-3555

**Re: *TQ Delta, LLC v. 2Wire, Inc.*
C.A. No. 13-cv-1835-RGA**

Dear Judge Andrews:

The parties jointly request the Court's guidance regarding the jury trial in this case currently scheduled for February 22, 2021.

TQ Delta's Position: The Family 4 portion of this case is currently scheduled for trial on February 22, 2021. TQ Delta would prefer not to remove this date from the calendar until the Court is certain that holding a jury trial then is not feasible. Even if the Court has already determined that this trial date is not feasible, TQ Delta would prefer to proceed with preparing the case for trial on the current schedule, including filing the pretrial order on February 4, 2021 and holding the pretrial conference on February 12, 2021. Briefing for summary judgment and *Daubert* motions is complete for Family 4.

As an alternative and to the extent the Court is closer to resolving summary judgment and *Daubert* motions for the Family 6 portion of this case for which briefing was complete as of December 1, 2020, the February 22 trial date could be used for Family 6.

2Wire's Position: 2Wire respectfully submits that the Family 4 trial currently scheduled to begin on February 22, 2021 should be vacated, with new pretrial and trial dates to be set after the Court has ruled on the parties' pending motions for summary judgment and *Daubert* motions for Family 4 and after the feasibility of conducting an in-person jury trial becomes clearer. This is the same approach that the Court took with respect to the Family 6 case and trial date. *See* D.I. 1496.

The same rationale applies for postponing the Family 4 trial date. The number of COVID-19 cases around the country continues to rise, including in this District, and no in-person jury trials have occurred in this District since the Court held a status conference with the parties in November to discuss the (now vacated) January 2021 trial date for the Family 6 case. It seems extremely unlikely that the Family 4 case can proceed to an in-person jury trial in February 2021 and so it would be inefficient and a waste of resources for the parties to move forward with exchanging pretrial disclosures now, only to have to review and most likely redo those disclosures when the Family 4 trial is actually scheduled for a later date. The risk of creating unnecessary work is particularly high given that, as with the Family 6 proceedings, the Court has not yet ruled on the parties' potentially dispositive and *Daubert* motions in the Family 4 case.

Those rulings likely will affect the scope and content of the parties' pretrial disclosures and the proposed pretrial order.

For these reasons, 2Wire requests that the Family 4 trial date be vacated.

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If the Court would like to discuss this matter for further clarification, the parties are available for a teleconference at the Court's convenience.

Respectfully submitted,

/s/ Michael J. Farnan

Michael J. Farnan

cc: Counsel of Record (Via E-Filing)